

REMARKS

Reconsideration and allowance of this application in light of the foregoing amendments and accompanying remarks is respectfully requested.

THE ALLOWABLE CLAIMS

The Examiner's indication that claims 5 and 6 would be allowable if rewritten in independent form has been noted with appreciation.

THE CLAIM AMENDMENTS

The amendments to claims 1 and 11 do not involve amendment of a claim element that narrows the literal scope of the claim.

Independent claim 1 has been amended to more clearly, but no less broadly, set forth the switching rocker (30) as being designed to receive the fuse plug (10).

Dependent claim 11 has been amended to more clearly, but no less broadly, set forth the relationship between the switching rocker (30) and housing (2), and the relationship between the switch unit (1) and apparatuses (50, 51, 52, 53). Claim 11 has also been amended to delete the phrase "in particular" and to make it clear that claim 11 is dependent only upon independent claim 1.

The dependent claims 3 and 4 have each been amended to positively recite the optical indication directly rather than indirectly or inferentially.

Support for the claim amendments is found in the specification and drawings of the application as originally filed.

THE OBJECTIONS TO CLAIMS 3, 4, AND 11-13 ARE OVERCOME

Claims 3 and 4 were rejected as lacking an antecedent basis for the word “optical.”

Each of claims 3 and 4 has been amended to explicitly set forth the optical indication positively rather than inferentially or indirectly. Accordingly, withdrawal of the objection to claims 3 and 4 is respectfully requested.

In the second paragraph of Item 3 on page 2 of the Official Action, the Examiner objected to claims 11-13 on the basis that claim 13 allegedly recited the phrase “in particular.” It appears that the Examiner inadvertently referred to dependent claim 13, and meant to refer instead to independent claim 11. Independent claim 11 as originally filed included the phrase “in particular,” and claims 12 and 13 are dependent thereon, but do not explicitly and additionally recite the phrase “in particular.” Further, in the second paragraph of Item 3 on page 2 of the Official Action, the Examiner also noted that it was not clear which of the claims 1-10 was being claimed. Claim 11 has been amended herein to make it dependent only on independent claim 1, and independent claim 11 has been amended herein to delete the phrase “in particular.” Therefore, withdrawal of the objection to independent claim 11 and to its dependent claims 12 and 13, is respectfully requested.

In view of the above-discussed amendments, it is believed that claims 3, 4, and 11-13 are now even more clear and definite. Accordingly, withdrawal of the objections to these claims is respectfully requested.

**THE REJECTION OF CLAIMS 1-4 AND 7-13
UNDER 35 U.S.C. §103(a) IS OVERCOME**

Claims 1-4 and 7-13 were rejected as being unpatentable over the British Patent No. 2,309,122 (to Chew) in view of U.S. Patent No. 3,609,268 (to Sanchez).

It is believed that when the present invention and the cited references are properly understood, it will become evident (as shown in the following discussion) that the teachings of these references, either alone or in combination, do not disclose or suggest the novel apparatus of the present invention as claimed. Therefore, the rejections are traversed and should be withdrawn.

Of the claims 1-4 and 7-13 rejected over prior art, claim 1 is the only independent claim. Claim 1, as amended herein, now even more clearly sets forth the switching rocker (30) as being mounted in a housing (2). Further, the fuse plug (10) for holding a fuse length (20) can be inserted into the switching rocker (30) as recited in amended claim 1. Additionally, as now more clearly set forth in amended claim 1, it is the switching rocker (30) which can pivot between a switched-off position and a switched-on position.

In contrast, the British patent to Chew discloses a switching rocker 30 which is separate and independent from a fuse carrier assembly 29 that holds a fuse 23. This is

clearly shown in FIG. 4 of Chew where the fuse 23 is shown near the bottom of the structure below the switching rocker or switch rocker assembly 30. By comparing FIGS. 3 and 4 in Chew, it can be seen very clearly that the fuse 23 is separate from the fuse carrier assembly 29. As described in Chew, in the first ten lines on page 9, the separate switch rocker assembly 30 moves to hit an upper protrusion 40 on the fuse carrier assembly 29. Thus, in Chew, the rocker switch 30 and the fuse carrier assembly 29 are two, independent subassemblies.

Even if the Examiner were to consider that the Chew fuse carrier assembly 29 is a "fuse plug" in the sense of the instant application invention fuse plug 10, then the Chew fuse carrier assembly 29 is still not inserted into the switching rocker 30. In contrast, in the instant application, the invention set forth in independent claim 1 includes the switching rocker 30 which is "designed such that a fuse plug (10) for holding a fuse link (20) can be inserted in said switching rocker (30)."

The U.S. patent to Sanchez also wholly fails as an effective reference. The invention of Sanchez is directed to a completely different device. Sanchez discloses an integrated electrical rocker switch, but does not disclose the use of any fuse plug or fuse link at all. If a fuse plug or fuse link is associated with the Sanchez invention, then such a fuse plug or fuse link must be arranged at some other location in the electrical circuit, but clearly it is not disposed within the device disclosed in Sanchez. Rather, Sanchez merely discloses an indicator light unit having a pivotally mounted actuator in

an insulating box. According to the disclosure of Sanchez, the indicator lamp is provided in the rocker switch simply for indicating whether the switch is in its on position or in its off position. This is contrast with the present invention wherein, as set forth in the instant application amended independent claim 1, the switching rocker (30) has an indication (35) for monitoring the serviceability of the fuse link (20).

Sanchez also teaches away from the present invention as set forth in amended claim 1 of the instant application in that Sanchez teaches the use of an indicator lamp, but the lamp is provided in a different device, and it is provided for a different purpose. One of ordinary skill in the art would not be led to consider Sanchez for modifying a switching rocker to function as set forth in amended claim 1 of the instant application, and would not be led to consider Sanchez when faced with the problem for monitoring the serviceability of a fuse link in a switching rocker.

Neither prior art document cited by the Examiner anticipates, discloses, or even suggests the switching rocker system as set forth in amended claim 1 in the instant application.

The Combination Of References Is Not Effective To Teach The Invention

----The References Are Not Properly Combinable

The Examiner's combination of the above-discussed references is not well taken. The factual inquiry whether to combine references must be thorough and searching.

Further, attention is invited to Winner International Royalty Corp. v. Wang, 202 F.3d 1340, 1348 (Fed. Cir. 2000) where the court stated that "When an obviousness determination is based on multiple prior art references, there must be a showing of some "teaching, suggestion, or reason" to combine the references. Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573, 1579, 42 U.S.P.Q. 2d 1378, 1383 (Fed. Cir. 1997) (also noting that the "absence of such a suggestion to combine is dispositive in an obviousness determination")."

Further, the court in Winner stated, at 202 F.3d 1348-49, "...the showing of combinability, in whatever form, must nevertheless be 'clear and particular'."

Also, attention is directed to the court's guidance set forth in In re Lee, 277 F.3d 1338, 1343, 61 U.S.P.Q. 2d 1430, 1433 (Fed. Cir. 2002):

"When patentability turns on the question of obviousness, the search for and analysis of the question of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness."

In the instant situation, the prior art teaches away from providing a fuse plug insert in a switching rocker. Without any such teaching, suggestion, or acknowledgment of such a possibility, there would not have been an incentive for one of ordinary skill in the art to combine the cited references.

----The References Must Not Be
Improperly Combined Using Hindsight

It would only be hindsight that would allow the Examiner to present any argument at all in rejecting the amended independent claim 1 of the instant application. As stated in In re Dembiczak, 175 F.3s 994, 999, 50 U.S.P.Q. 2d 1614, 1617 (Fed. Cir. 1998):

“Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for showing of the teaching or motivation to combine prior art references....Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight.”

----Even If The References Are Combined, The Combination
Does Not Teach Or Suggest The Present Invention

It is important to keep in mind the proper approach when attempting to combine references which teach one or more of the specific components in an overall structure. As articulated by the Court of Appeals for the Federal Circuit in Interconnect Planning Corp. v. Feil, 227 U.S.P.Q. 543, 548 (Fed. Cir. 1985), it is legal error to reconstruct the claimed system using the blueprint of the claims to pick and choose among the prior art. One must look to the overall arrangement and features of the claimed system.

In this case, none of the cited patents teaches or suggests, either alone or in combination, the arrangement of the claimed structure wherein, inter alia, the fuse plug is inserted in the switching rocker, and the switching rocker has an indication for monitoring the serviceability of the fuse link. Further, none of the cited prior art patent structures suggests the claimed structure and resulting advantages.

THE CLAIMS 1-13 ARE ALLOWABLE

In view of the above discussion, it is believed that independent claim 1, as amended, is allowable. Accordingly, withdrawal of the rejection of claim 1 is respectfully requested.

Dependent claims 5 and 6 have already been held by the Examiner in the Official Action to set forth allowable subject matter.

Dependent claims 2-4 and 7-13 are each dependent directly or indirectly upon the above-discussed independent claim 1. Therefore, each dependent claim includes all of the features of independent claim 1 from which it depends.

For at least the reasons given above in arguing for the allowability of independent claim 1, the dependent claims 2-4 and 7-13 are believed to be allowable also.

Therefore, withdrawal of the rejections of the dependent claims 2-13, which are dependent upon claim 1, is respectfully requested.

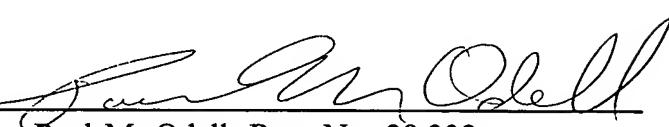
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Further, it is believed that this entire application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

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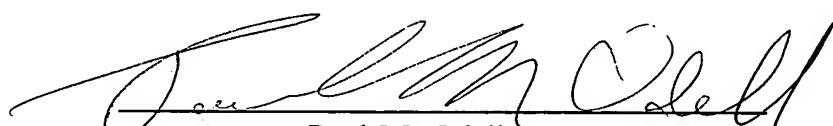


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